

Johan Bronge

Pro Se

10 December 2023

UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK

In re:

CELSIUS NETWORK LLC, et al.

Debtors.

Chapter 11

Case No. 22-10964 (MG)

Jointly Administered

Civil Appeal Number 23-cv-10368

Response to DANIEL A. FRISHBERG'S MOTION TO STRIKE ITEMS FROM THE RECORD
ON APPEAL (EFC#4067)

Your Honor,

I, Johan Bronge, the appellant and pro se creditor in the above-mentioned cases, hereby submit this response to Daniel A. Frishberg's Motion to Strike Items from the Record on Appeal.

I. Introduction

I respectfully present this response to address the motion filed by Mr. Frishberg on December 5, 2023, seeking to strike items from the record on appeal. I will respond to the key arguments presented in Mr. Frishberg's motion.

II. Preliminary Statement

Mr. Frishberg characterizes my appeal as frivolous and meritless, asserting that I am

attempting to rewrite the confirmed Chapter 11 Plan to suit my needs. My appeal is neither frivolous nor without merit. It is essential to address these allegations and demonstrate the merit of my appeal.

III. Response to Specific Points Raised in the Motion

1. Pro Se Relief:

- Mr. Frishberg requests pro se relief, claiming a lack of legal expertise. While I respect his pro se status, the merits of my appeal should be evaluated based on the legal arguments presented and the full and accurate evidence.

2. Argument on Earn Subordination:

- Mr. Frishberg contends that I fail to understand the realities of the case, particularly regarding the subordination of Earn. I maintain that Earn accounts should be subordinated, when considering the complete and accurate evidence as specified in my filing (EFC#3908). This evidence, and my other arguments have been made timely, well before the confirmation hearing, but not been recognized and addressed.

3. Motion to Strike Items from the Record:

- Mr. Frishberg seeks to strike unspecified documents from the record on appeal, including the transcript of the confirmation hearing (EFC#3999) and references to my filing for clarification (EFC#4009). It is crucial to note that the transcript serves as a verbatim record of the confirmation hearing, and my filing for clarification essentially only mirrors the appeal's core arguments. Both documents are pertinent to presenting the full and correct evidence, do not add anything new and help ensure a comprehensive understanding of the case. If the Court deems it necessary to entertain Mr. Frishberg's motion, I respectfully suggest that he be required to specify the documents he wishes to strike, ensuring transparency and fairness in the process.

IV. Main Purpose of the Appeal:


Mr. Frishberg misunderstands or does not comprehend the purpose of the appeal, despite it is

clearly stated in my appeal: "I request Your Honor to pass judgment on the merit of the complete and correct evidence and agreements, specifically and explicitly address each of the points and evidence listed above and laid out in my filing on docket (EFC#3908)" and "Additionally, I urge Your Honor to also pass judgement on merit, using the complete evidence, for non use of market rates for collateral conversion and the non subordination of Earn accounts that also have been decided without incorporating all evidence" The primary purpose of my appeal is to seek a judgment based on the merits of the complete and accurate evidence, as I am convinced this has not been fully achieved in the prior proceedings.

V. Conclusion

In conclusion, I respectfully request that the Court denies Mr. Frishberg's Motion to Strike Items from the Record on Appeal. No items are defined or specified and as far as I understand all items listed are already in evidence or designated as judicial notice documents. The primary purpose of my appeal is to seek a judgment based on the merits of the complete and accurate evidence. This has not been appropriately addressed, neither by the Court or the Debtor despite repeated requests. Striking items would not only impede a fair evaluation of the appeal but also hinder the Court's ability to render a just decision. I appreciate the Court's consideration of this matter and respectfully request a fair and thorough review of my appeal, with due regard for the entirety of the evidence presented.

Respectfully,



Johan Bronge